
LEGISLATION SYSTEMS REGARDING THE AIRING OF TV ADDS ADDRESSED TO CHILDREN. COMPARATIVE ANALYSIS

Stela-Anca Radu, PhD Student, “Al. Ioan Cuza” University of Iași

Abstract: Currently called a “business philosophy that prioritizes the customer”, marketing is a social and economic science. The most common means of communication used in marketing is advertising and the preferred means of transmitting information is the audiovisual channel.

Advertising is the most used part of publicity, because it proves to be effective beginning with the launch of a product or service and continuing with the customer loyalty and product repositioning. But now advertising has come to use means that negatively affect viewers, especially children, violating their rights. Children's rights most often violated by advertisements are stipulated in Article 8 of the European Convention for Human Rights Protection and Fundamental Freedoms, Article 12, 13, 14, 16 and 17 of the Convention on the Rights of the Child.

Therefore, in this paper, using the comparative content analysis, I will make an evaluation of the legislation in force regarding the TV advertising aimed at children, comparing the legislation in force in Sweden, Canada, New Zealand and Australia.

Keywords: children’s rights, sociology, advertisement, audiovisual, legislation.

Introduction

Marketing has become today an “influence in everyone's life, the means by which people are given the standard of living” (Ph. Kotler, 1998). Named so far a “business philosophy that prioritizes customer” (Purcărea, 1999), marketing is a science which observes the way to get closer to the wishes of masses and especially the possibility for a company to prosper in the future. Marketing has evolved very fast alongside with the dynamics of the economy and society, so that the used techniques were perfected, adapted to the needs of the present. An important component in marketing, widely used, is the advertisement transmitted through the audiovisual channel, as showed by the results of the studies. According to a report by Carat media agency for 2015, it predicts a growth of 4.6% compared to the 2014 global ad spending, reaching the sum of 540 billion dollars, also predicting that television will attract 42% of the advertising costs. The study "Television International Key Facts", the 2014 edition, conducted by the international company IP Netork, claims that time spent on television in the United States increased by 2 minutes every year, and at the European level eight minutes. According to the same study, US citizens spend on average 292 minutes a day, Romania being the first nation regarding the time spent in front of the TV, with an average of 326 minutes per day, followed by other European countries. The market research company Deloitte complements the above mentioned study and states that the most effective channel for promoting media is television.

Broadcast advertising is aimed at all age groups so that advertising to children is not something unknown. Marketing techniques have evolved in addressing to children and the effects of advertising on children are devastating to the health of the small consumers, both at physical and mental level. One of the negative effects of advertising is the advertising of products containing more sugars and carbohydrates, the main factors that predisposes and

conducts to obesity. To counter the effects that advertising has in triggering and sustaining obesity, the World Health Organization developed the Childhood Obesity Surveillance European Initiative (COSI) (WHO / Europe, 2005). Results from 2010 indicate that 24% of young people between 6-9 years are overweight or obese. As stated by Livingstone (Livingstone, 2001), obesity is now a major health problem in Europe. But the negative aspects do not just stop at this level, because small consumers need special protection to guarantee and preserve the first principle of the best interests of the child, followed by all other principles underlying the Convention on the Rights of the Child. For this reason, the European Union and other countries that do not belong to Europe, concern about the effects of advertising promoted through the audiovisual channel led to restrictive regulations on advertising directed at children. But regulations are applied different in the EU countries, although national implementations were carried by the Audiovisual Media Services Directive - AVMSD) since 2007.

1. Restrictive regulatory systems

Regarding the rules of the European Union there are some regulations that are concerned with the issue of advertising to children in general, but there are few regulation dealing with the issue of food advertising to children particularly (Garde, 2006). The main tool developed by the European Union is the Audiovisual Media Services Directive (European Commission, 2010), an evolution of the first project in this issue, "Television without Frontiers" in 1989 (revised in 1997 and replaced in 2007 with AVMSD). Other policies in the regulation of advertising are aimed at protecting consumers. Several legislative acts were adopted regarding this policy in the European Union, acts also including regulations on advertising, foods and labeling. Regarding the regulations on protecting minors, the European Union proves a particular concern regarding the safety of toys, but on advertising aimed at children, everything is treated at a general level. Clear and very strict regulations are set out for tobacco and alcohol products. In respect of other products or services of interest to children, such as sweets, confectionery and toys, regulations in the member states are not consistent, but rather with very different aspects. Differences in the regulation of advertising at European level cover a cross-border dimension of advertising to children; therefore, it is difficult for Member States to implement national regulations for foreign advertising agencies subject to the regulations of the country of origin.

According to the European Commission (2012), reports on the implementation at national level of AVMSD (2010) provide a number of important provisions. One is the European Union Audiovisual Media Services Directive no 13/2010. This Directive represents a central position of the legislation that regulates the television advertising directed to children. However, the Directive does not imply a uniform regulation in all Member States. Five European countries ban the advertisement aimed at children. While other states impose a partial ban on advertising in children's programs, or they impose restrictions with reference to the time when they could be viewed or restrictions for certain products. Other Member States forbid the presenting sponsors` logos in programs for children.

One of the most restrictive law systems is in force in Sweden, where broadcast TV advertising aimed at children under 12 is forbidden, as well as e-mails in order to promote

various products and services to children under the age of 16. There are also a number of trade agreements, including rules on toys that inspire and incite to violence. The Convention on the Rights of the Child stresses in general, the necessity for children's rights to be recognized, and the need for protection, and more specifically that the needs of children differ in various stages of childhood. Swedish legislation has adapted this idea and regulations vary according to age, but this is a weakness when it comes to rules of the European Commission (EC). However, the age up to which restrictions are imposed in RTVA (Radio and TV Act-Sweden) is quite high, which means that advertisement on objects of specific interest is denied to all children between 8 and 12 years (Lena Olsen, 2010). This could be seen as a lack of respect for the rights of these children, having regard to the EC rules that recognize the right to be informed. But the reason that was primary in taking the decision was that children under 12 years do not have the ability to evaluate information and for this reason they need special protection, which in such cases is seen as a priority, because the average age children are influenced by advertising in the same way as the smaller, although they recognize the difference between advertising and the viewed programs (John, 1999).

Another kind of restrictive regulation can be seen in Australia and New Zealand, conducted by different organizations, which over time have adapted the legislation to the needs of the population, noting that Australia has been adapting its legislation for the last 40 years. The legislations of the two states include frames specifically designed to protect children from the negative effects of advertising. In these countries, organizations' initiatives have proved a success in solving the problems faced by youth nutrition. The latest changes in the regulations that impose limits on both advertising broadcasters and those who create advertising in New Zealand involve: its dissemination within a strict timetable, conducted by age and TV station; dissemination to make a well-defined time frame; broadcast time limited at 10 minutes of commercials per hour, with a deviation of 2 minutes, according to the TV station and the place children occupy in terms of target audience of the show in which it is aired; advertising should be clear, recognized and well delimited by the programs for children, even within the international broadcasting satellite stations on the territory of New Zealand; no advertisement will be repeated more than twice per hour on a certain channel, for school children; the number of the advertisements will not be more than three, under the same conditions above; in the case of the international broadcasting satellite stations there will not be promoted licensed products in associated programs and there will not be induced feelings such as humiliation or frustration; all broadcasters are required to adopt the Regulation on Advertising Practice Code, which contains the Code of Advertising Practice for Children, the Code of Ethics, the Code of Advertising Practice and the Code for the people in the advertisements (New Zealand Television Broadcaster's Council). Australia also conducted a further review of the regulation, coming up with improvements regarding the ethics in the advertisement for children and the environment, but also regarding the use of terms related to discrimination and sexual connotations. (Advertising Standards Bureau, 2015).

However, despite these continuous efforts, there are voices denouncing the inefficiency of these legislative measures. A study conducted in 2014 by Louise Thornley *et al.* makes an analysis of the New Zealand Advertising Standards Authority (ASA) activities in relation to the provisions of the UN Convention on the Rights of the Child (UNCROC). After analyzing

eight decisions on public complaints on advertising, there were observed the following issues: the implementation of the codes includes partial, unreasonable or inconsistent decisions taken by the board for complaints, the inability to implement changes to the codes and the inability to prevent the growing advertising for unhealthy food. Thus, say the authors, it proves that the ASA system is reactive; it has limitations regarding the sanctions, providing little incentives to restrict such advertising, lacking an independent monitoring. This analysis suggests that the system of disclosure standards in New Zealand do not fully protect children's rights by failing to act in the UNCROC vision and especially by not adequately addressing Articles 3, 6 and 13 of the UNCROC. Noting the degree of harm that an unhealthy food lifestyle has on children and the contribution of marketing in adopting an unhealthy nutrition, it is concluded that the legal requirements regarding food marketing aimed at children should be implemented globally. This would help governments mitigate the effects of one of the key factors in adopting an unhealthy food and will also allow them to fulfill their obligations to protect children's rights. It was also shown by this research that there is not offered an adequate protection for children aged between 14 and 17 years. (Louise Thornley, Louise Signal, George Thomson, 2014)

Another recognized state system created to protect small TV consumers is Canada, which has a long history on self-regulatory systems in the advertising industry, proving to be effective. Advertising for children in Canada is a marketing and communications field treated with greater accountability by institutions that protect children's rights. Known worldwide as one of the most comprehensive and complete systems of codes and standards in advertising for children, the Canadian system is frequently cited by various international countries and groups such as the World Health Organization. For over 40 years, Advertising Standards Canada (ASC) promoted responsible advertising and offered support in the industry, through the Canadian Code of Advertising Standards (CCAS). The organization has adapted to changing social values, as reflected in the recent revisions related to food advertising and advertising to children.

The Canadian Association of Broadcasters in 1971 created an additional code, the Broadcasting Code for advertising to children, administered by ASC. Since 1974, broadcasters have agreed to adopt the Code for Children as a condition for obtaining a broadcasting license. Also, another condition was the broadcast time of the advertising materials, which although internationally is set at a maximum of 12 minutes in an hour, broadcasters have voluntarily established a limit of 8 minutes in children's programs. In 1990, advertising companies founded a group that promotes responsible advertising of products and services for children and their families. The organization actively works in partnership with the government, educators, parents and experts to identify issues of concern in children's lives and to offer solutions for their protection. The latest initiative is Children's Healthy Active Living Program, conducted alongside with the well-known program realized within the school, TV & ME, which approaches the role of the media and their activities. When it comes to advertising to children, advertising, advertisers and media in Canada have treated this with great care and respect over the years, creating a number of safeguards to ensure that communication with children is done responsibly. After imposing the new rules of the program advertising, there have been conducted a series of studies including "The influence

of the Children's Food and Beverage Advertising Initiative: change in children's exposure to food advertising on television in Canada Between 2006-2009". There have been analyzed 27 advertisements running on TV stations in Toronto and Vancouver in 2006, 2009 and 2011.

The analysis showed a decrease by 4.5% of the spots aired on children stations and a 45% increase on mainstream stations. Overall, the level of advertising that children are exposed to increased by 16.8% in Toronto and 6.4% in Vancouver. Significant increases were noted for yogurt and snacks commercials in both cities, and for fast food in Toronto. Given the alarming increase in the number of commercials, despite the legislative initiative, it is obvious that we are facing an increasing aggressive marketing, especially the one that takes into account foods high in sugar, fat and salt, a situation which requires a constant reassessment of the legislative measures.

Conclusions

Restrictive systems, though much criticized, managed to protect children from the harmful effects of increasingly aggressive publicity. However, neither these systems prove to be sufficient, as some advertisers adopt aggressive behavior by developing new techniques to reach children, a situation which requires continuous adaptation of the legislation taking account of the developments in the advertising industry. We chose the legal systems in Sweden, Canada, Australia and New Zealand for this analysis because they are the closest to the Convention on the Rights of the Child, systems which should, in our view, be taken as models of best practices, with positive results.

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